UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/666,364	09/20/2000	Hideo Suzuki	39303.20197.00	8624

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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

EXAMINER
ZHOU, TING

ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/666,364	SUZUKI ET AL.
	Examiner	Art Unit	
	Ting Zhou	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>07 February 2005</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1,14,20,26-30 and 33-35</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1, 14, 20, 26-30 and 33-35</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/13/04</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

DETAILED ACTION

1.   The amendment filed on 7 February 2005 have been received and entered. Claims 1, 14,

20, 26-30 and 33-35 as amended are pending in the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1, 14, 20, 26-30, and 33-35 are rejected under 35 U.S.C. 103(a) as being

unpatentable over U.S. Patent No. 6,166,314 to Weinstock et al. (hereinafter Weinstock) and

"Emagic Notator Logic Sequencing software (Macintosh)" by Jim Aikin (hereinafter Aikin).

Referring to claims 1, 14, and 20, Weinstock discloses a method for editing performance

data, an apparatus, and machine-readable storing data and programs on a computer system

having a display. See col. 2, lines 5-10.

Weinstock controls the computer system to display a plurality of layers on a screen of the

display. See Fig. 6, which shows a graphical user interface that is divided into sections/layers

showing categories of information wherein each categories of information is represented by a

layer of information. Also, refer to col. 19, line 50 - col. 20, line 8.

Weinstock provides an instruction [and a receiver for receiving the instruction] for

controlling the display setting of at least one of the plurality of layers, the display setting being

one of a display mode or a non-display mode. In response to the instruction, the computer

system places at least one of the layers in a display mode or a non-display mode. See Fig. 9,

which shows a Views menu in which the user may select which categories (layers) are displayed.

The categories with a check beside them are displayed, while the ones that are unchecked are in a

non-display mode. Also, refer to col. 24, lines 27-49.

While the layers of Weinstock may contain execution icons (icons associated with the

execution of music; i.e. play: 618, stop: 616, fast forward: 626, among others), Weinstock does

not explicitly teach attaching an execution icon at a user prescribed position in at least one of

layer that is displayed on the display in response to a user instruction, wherein the execution icon

corresponds to execution-related data. However, Aikin discloses sequencing software with

several layers, wherein execution icons may be attached to each layer (i.e. Figs. 2-3, pages 123-

124 and 127-128). In these sections, Aikin describes how a user selects execution icons

corresponding to execution-related data representing articulation used in music performance, i.e.

pipes organ icon representing how the pipe organ, a musical instrument, performs, from a palette

and places them on a layer, causing the corresponding data to be incorporated into the

performance data being edited. For example, a user may select a pipes organ icon, which

corresponds to how the performance is to be executed, and is therefore an execution icon. The

musical notes are also execution icons pertaining to how music is to be played/executed.

Furthermore, since the windows and layers can be edited, once the icon is placed on a layer, they

can be edited as well.

It would have been obvious to one of ordinary skill in the art to combine the correlated

musical score interface of Weinstock with the Sequencing and editing interface of Aikin such

that at least one of the layers (i.e. GUI sections) is editable such that it can have execution icons

attached thereto as described by Aikin in order to edit, change, or add to the performance data

according to the desired purpose (Weinstock at col. 2, lines 5-10), i.e. achieve the desired

musical output or song as described in Aikin, thereby providing the user with user selected views

of information that reduce screen clutter and optimize the view for the user's needs as taught by

Weinstock (col. 24, lines 27-49).

Referring to claim 26, the prescribed position in the at least on layer, to which the

execution icon is attached in Weinstock and Aikin, is determined in correspondence with

progression of the performance data. For example, see Weinstock at col. 22, lines 54-67 and

Aikin at page 123, col. 1.

Referring to claim 27, Weinstock discloses that each layer (category) is displayed as an

execution icon layer in correspondence with the execution-related data. For example, see col. 1,

lines 25-38.

Referring to claim 28, Fig. 6 or Weinstock shows one of the execution icon layers

contains a tempo icon layer. See Fig. 6, 606 and 610.

Referring to claim 29, Fig. 6 of Weinstock shows that the computer system is controlled

to display a name of at least one of the plurality of layers. See how the name of each category

(layer) is displayed within the layer.

Referring to claim 30, it is inherent in Weinstock that a cursor (operator) is displayed that

is controlled by a mouse to control at least one of the plurality of layers. See Fig. 6 and Fig. 9.

Referring to claim 33, Weinstock and Aikin teach editing the execution icon attached

onto one of the plurality of layers, and editing the performance data corresponding to the

execution icon that is edited. See Weinstock at col. 21, lines 61-66. Also, see Aikin at the

sections labeled "The Matrix Window" and "The Hyper Edit Window" on page 127. It would

have been obvious to one of ordinary skill in the art to combine the correlated musical score

interface of Weinstock with the Sequencing and editing interface of Aikin in order to achieve an

interface that correlates and edits musical data according to the liking of the musician, wherein

the musician may add/edit execution icons that affect the performance data to achieve the desired

musical output as taught by Aikin and correlate performance data with user selected views of

information that reduce screen clutter and optimize the view for the user's needs as taught by

Weinstock (col. 24, lines 27-49).

Referring to claim 34, a musical score is displayed on the screen of the display of

Weinstock and Aikin so that the plurality of layers are displayed in relation to the musical score.

See Weinstock at col. 19, lines 64-67, which describes rendering the accompanying score in one

of the layers. Also, see Fig. 2 of Aikin.

Referring to claim 35, in response to the user instruction of Weinstock and Aikin, *supra*,

the execution icon attached to the layer is selected or edited and a prescribed range of execution-

related data corresponding to the execution icon that is selected or edited on the musical score is

visually displayed. See Aikin at the section under "The Matrix Window" on page 127, which

describes how notes or groups (range) of notes may be selected and visually edited.

Response to Arguments

3.   Applicant's arguments filed 7 February 2005 have been fully considered but they are not

persuasive.

4.   Firstly, the examiner notes that the applicant has amended the claims to add limitations
such as "representing articulation used in musical performance", and "wherein said steps of
attaching the execution icon causes the corresponding execution-related data to be incorporated
into the performance data being edited" into the independent claims. Claim languages such as
"wherein" and statements of intended use (i.e. execution icon corresponding to execution-related
data representing articulation used in musical performance) merely suggest limitations or make
limitations optional. In using claim languages such as "wherein" and statements of intended use
or field of use, applicant has not required steps to be performed or limited an apparatus to a
particular structure (see MPEP 2106).

5.   Furthermore, the applicant argues that Aikin does not speak to graphically attaching
execution icons, or any icons, to a plurality of displayed layers whereby the attaching of the
icons causes the corresponding execution-related data to be incorporated into the performance
data, especially wherein the execution-related data represent articulation used in musical
performance. The examiner respectfully disagrees. Aikin teaches the ability to edit windows,
sequences and layers with tools such as the scissor or solo tool; Aikin further teaches that music
icons, such as a trumpet or pipe organ icon, can be selected from a tool palette and dragged onto
a window of the GUI or display, as recited in page 123 and shown in Figure 3; thus, once the
icon is placed onto the window, the icon with the corresponding data of how the musical
instrument is to be executed, can also be edited since the icon is on the window and the window
can be edited. The applicant also argues that instrument icons are not execution icons. The

examiner respectfully disagrees. An execution icon corresponds to execution-related data. An instrument icon pertains to how the music is to be executed, i.e. performed and is therefore music performance related data. Thus, instrument icons are execution icons.

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ting Zhou whose telephone number is (571) 272-4058. The examiner can normally be reached on Monday - Friday 7:00 am - 4:30 pm.
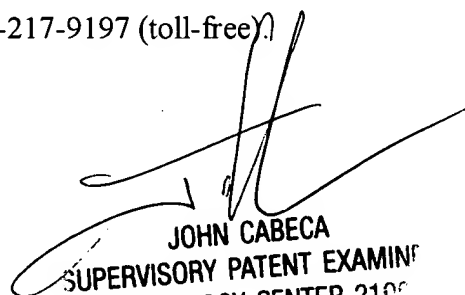
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached at (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-4058.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TZ

JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100